

that terrorism respects neither boundaries nor borders: Now, therefore, be it

*Resolved*, That the Senate—

(1) condemns in the strongest possible terms the terrorist attacks in Istanbul, Turkey, on November 15 and 20, 2003;

(2) expresses its condolences to the families of the individuals murdered in the terrorist attacks, expresses its sympathies to the individuals injured in the attacks, and conveys its hope for the rapid and complete recovery of all such injured individuals;

(3) expresses its condolences to the people and the governments of the Republic of Turkey and the United Kingdom over the losses they suffered in these attacks; and

(4) expresses its solidarity with the United Kingdom, Turkey, and all other countries that stand united against terrorism and work together to bring to justice the perpetrators of these and other terrorist attacks.

### FEDERAL LAW ENFORCEMENT PAY AND BENEFITS PARITY ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 409, S. 1683.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1683) to provide for a report on parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1683) was read the third time and passed, as follows:

S. 1683

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Law Enforcement Pay and Benefits Parity Act of 2003".

#### SEC. 2. LAW ENFORCEMENT PAY AND BENEFITS PARITY REPORT.

(a) DEFINITION.—In this section, the term "law enforcement officer" means an individual—

(1)(A) who is a law enforcement officer defined under section 8331 or 8401 of title 5, United States Code; or

(B) the duties of whose position include the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States; and

(2) who is employed by the Federal Government.

(b) REPORT.—Not later than April 30, 2004, the Office of Personnel Management shall submit a report to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees and subcommittees of Congress that includes—

(1) a comparison of classifications, pay, and benefits among law enforcement officers across the Federal Government; and

(2) recommendations for ensuring, to the maximum extent practicable, the elimination of disparities in classifications, pay and benefits for law enforcement officers throughout the Federal Government.

#### SEC. 3. EMPLOYEE EXCHANGE PROGRAM BETWEEN FEDERAL EMPLOYEES AND EMPLOYEES OF STATE AND LOCAL GOVERNMENTS.

(a) DEFINITIONS.—In this section—

(1) the term "employing agency" means the Federal, State, or local government agency with which the participating employee was employed before an assignment under the Program;

(2) the term "participating employee" means an employee who is participating in the Program; and

(3) the term "Program" means the employee exchange program established under subsection (b).

(b) ESTABLISHMENT.—The President shall establish an employee exchange program between Federal agencies that perform law enforcement functions and agencies of State and local governments that perform law enforcement functions.

(c) CONDUCT OF PROGRAM.—The Program shall be conducted in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(d) QUALIFICATIONS.—An employee of an employing agency who performs law enforcement functions may be selected to participate in the Program if the employee—

(1) has been employed by that employing agency for a period of more than 3 years;

(2) has had appropriate training or experience to perform the work required by the assignment;

(3) has had an overall rating of satisfactory or higher on performance appraisals from the employing agency during the 3-year period before being assigned to another agency under this section; and

(4) agrees to return to the employing agency after completing the assignment for a period not less than the length of the assignment.

(e) WRITTEN AGREEMENT.—An employee shall enter into a written agreement regarding the terms and conditions of the assignment before beginning the assignment with another agency.

### FEDERAL RAILROAD SAFETY IMPROVEMENT ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 358, S. 1402.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1402) to authorize appropriations for activities under the Federal railroad safety laws for fiscal years 2004 through 2008, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Railroad Safety Improvement Act".

#### SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.  
Sec. 2. Amendment of title 49, United States Code.  
Sec. 3. Table of contents.

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of appropriations.

#### TITLE II—RULEMAKING, INSPECTION, ENFORCEMENT, AND PLANNING AUTHORITY

Sec. 201. National crossing inventory.  
Sec. 202. Grade crossing elimination and consolidation.  
Sec. 203. Model legislation for driver behavior.  
Sec. 204. Operation Lifesaver.  
Sec. 205. Transportation security.  
Sec. 206. Railroad accident and incident reporting.  
Sec. 207. Railroad radio monitoring authority.  
Sec. 208. Recommendations on fatigue management.  
Sec. 209. Positive train control.  
Sec. 210. Positive train control implementation.  
Sec. 211. Survey of rail bridge structures.  
Sec. 212. Railroad police.  
Sec. 213. Federal Railroad Administration employee training.  
Sec. 214. Report regarding impact on public safety of train travel in communities without grade separation.  
Sec. 215. Runaway trains emergency response.

#### TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Technical amendments regarding enforcement by the Attorney General.  
Sec. 302. Technical amendments to civil penalty provisions.  
Sec. 303. Technical amendments to eliminate unnecessary provisions.

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.  
Section 20117(a) is amended to read as follows:

"(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter—

"(1) \$166,000,000 for the fiscal year ending September 30, 2004;

"(2) \$176,000,000 for the fiscal year ending September 30, 2005;

"(3) \$185,000,000 for the fiscal year ending September 30, 2006;

"(4) \$192,000,000 for the fiscal year ending September 30, 2007; and

"(5) \$200,000,000 for the fiscal year ending September 30, 2008."

#### TITLE II—RULEMAKING, INSPECTION, ENFORCEMENT, AND PLANNING AUTHORITY

##### SEC. 201. NATIONAL CROSSING INVENTORY.

(a) IN GENERAL.—Chapter 201 is amended by adding at the end the following:

##### "§ 20154. National crossing inventory

"(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or 6 months after a new

crossing becomes operational, whichever occurs later, each railroad carrier shall—

“(1) report to the Secretary of Transportation current information, as specified by the Secretary, concerning each previously unreported crossing through which it operates; or

“(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

“(b) UPDATING OF CROSSING INFORMATION.—(1) On a periodic basis beginning not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

“(A) report to the Secretary current information, as specified by the Secretary, concerning each crossing through which it operates; or

“(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

“(2) A railroad carrier that sells a crossing on or after the date of enactment of the Federal Railroad Safety Improvement Act, shall, not later than the date that is 18 months after the date of enactment of the Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing.

“(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, until such provision is superseded by a regulation issued under this section.

“(d) DEFINITIONS.—In this section:

“(1) CROSSING.—The term ‘crossing’ means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

“(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

“(B) a dedicated pedestrian pathway that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

“(2) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, or Puerto Rico.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20153 the following:

“20154. National crossing inventory.”

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

“(k) NATIONAL CROSSING INVENTORY.—

“(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, as specified by the Secretary, concerning each previously unreported crossing located within its borders.

“(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, as specified by the Secretary, concerning each crossing located within its borders.

“(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, until such provision is superseded by a regulation issued under this subsection.

“(4) DEFINITIONS.—In this subsection, the terms ‘crossing’ and ‘State’ have the meaning given those terms by section 20154(d)(1) and (2), respectively, of title 49.”

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended—

(A) by inserting “with section 20154 or ” after “comply” in the first sentence; and

(B) by inserting “section 20154 of this title or” after “violating” in the second sentence.

(2) Section 21301(a)(2) is amended by inserting “The Secretary shall impose a civil penalty for a violation of section 20154 of this title.” after the first sentence.

#### SEC. 202. GRADE CROSSING ELIMINATION AND CONSOLIDATION.

(a) CROSSING REDUCTION PLAN.—Within 24 months after the date of enactment of this Act, the Secretary of Transportation shall develop and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan for a joint initiative with States and municipalities to systematically reduce the number of public and private highway-rail grade crossings by 1 percent per year in each of the succeeding 10 years. The plan shall include—

(1) a prioritization of crossings for elimination or consolidation, based on considerations including—

(A) whether the crossing has been identified as high risk;

(B) whether the crossing is located on a designated high-speed corridor or on a railroad right-of-way utilized for the provision of intercity or commuter passenger rail service; and

(C) the existing level of protection;

(2) suggested guidelines for the establishment of new public and private highway-rail grade crossings, with the goal of avoiding unnecessary new crossings through careful traffic, zoning, and land use planning; and

(3) an estimate of the costs of implementing the plan and suggested funding sources.

(b) CONSULTATION WITH STATES.—In preparing the plan required by subsection (a), the Secretary shall seek the advice of State officials, including highway, rail, and judicial officials, with jurisdiction over crossing safety, including crossing closures. The Secretary and State officials shall consider—

(1) the feasibility of consolidating and improving multiple crossings in a single community;

(2) the impact of closure on emergency vehicle response time, traffic delays, and public inconvenience; and

(3) the willingness of a municipality to participate in the elimination or consolidation of crossings.

(c) GUIDE TO CROSSING CONSOLIDATION AND CLOSURE.—Within 1 year after the date of en-

actment of this Act, the Secretary shall update, reissue, and distribute the publication entitled “A Guide to Crossing Consolidation and Closure”.

(d) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—Section 130(i)(3)(B) of title 23, United States Code is amended by striking “\$7,500.” and inserting “\$15,000.”

(e) FUNDING FOR PLAN.—From amounts authorized by section 20117(a)(1) of title 49, United States Code, to the Secretary, there shall be available \$500,000 for fiscal year 2004 to prepare the plan required by this section, such sums to remain available until the plan is transmitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure as required by subsection (a).

#### SEC. 203. MODEL LEGISLATION FOR DRIVER BEHAVIOR.

(a) IN GENERAL.—Section 20151 is amended—

(1) by striking the section caption and inserting the following:

“§20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals”;

(2) by striking “safety,” in subsection (a) and inserting “safety and violations of highway-rail grade crossing signals,”;

(3) by striking the second sentence of subsection (a) and inserting “The evaluation and review shall be completed not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act.”; and

(4) by striking “MODEL LEGISLATION.—Within 18 months after November 2, 1994, the” in subsection (c) and inserting “LEGISLATION FOR VANDALISM AND TRESPASSING PENALTIES.—The”;

and

(5) by adding at the end the following:

“(d) MODEL LEGISLATION FOR GRADE-CROSSING VIOLATIONS.—Within 2 years after the date of the enactment of the Federal Railroad Safety Improvement Act, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signals.

“(e) VIOLATION DEFINED.—In this section, the term ‘violation of highway-rail grade crossing signals’ includes any action by a motorist, unless directed by an authorized safety officer—

“(1) to drive around or through a grade crossing gate in a position intended to block passage over railroad tracks;

“(2) to drive through a flashing grade crossing signal;

“(3) to drive through a grade crossing with passive warning signs without determining that the grade crossing could be safely crossed before any train arrived; and

“(4) in the vicinity of a grade crossing, that creates a hazard of an accident involving injury or property damage at the grade crossing.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20151 and inserting the following:

“20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals.”

#### SEC. 204. OPERATION LIFESAVER.

Section 20117(e) is amended to read as follows:

“(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, from the amounts authorized to be appropriated under subsection (a), there shall be available

for railroad research and development \$1,250,000 for fiscal year 2004, \$1,300,000 for fiscal year 2005, \$1,350,000 for fiscal year 2006, \$1,400,000 for fiscal year 2007, and \$1,460,000 for fiscal year 2008 to support Operation Lifesaver, Inc.”.

#### SEC. 205. TRANSPORTATION SECURITY.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) is amended to read as follows:

“(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety, including security, supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary of Transportation.”.

#### SEC. 206. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

“(a) GENERAL REQUIREMENTS.—On a periodic basis specified by the Secretary of Transportation but not less frequently than quarterly, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the specified period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.”.

#### SEC. 207. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 is amended by inserting at the end the following:

“(c) RAILROAD RADIO COMMUNICATIONS.—

(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct the following activities at reasonable times:

“(A) Intercepting a radio communication that is broadcast or transmitted over a frequency authorized for the use of one or more railroad carriers by the Federal Communications Commission, with or without making their presence known to the sender or other receivers of the communication and with or without obtaining the consent of the sender or other receivers of the communication.

“(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

“(C) Receiving or assisting in receiving the communication (or any information therein contained).

“(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after

having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

“(E) Recording the communication by any means, including writing and tape recording.

“(2) LIMITATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary may engage in the activities authorized by paragraph (1) for the purpose of accident prevention, including, but not limited to, accident investigation.

“(3) USE OF INFORMATION.—

“(A) Except as provided in subparagraph (F), information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to sections 5122, 20702(b), 20111, 20112, 20113, or 20114 of this title.

“(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

“(C) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

“(D) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

“(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

“(F) No information obtained by an activity authorized by paragraph (1)(A) that was undertaken solely for the purpose of accident investigation may be introduced into evidence in any administrative or judicial proceeding in which civil or criminal penalties may be imposed.

“(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.

“(d) REASONABLE TIME DEFINED.—In this section, the term ‘at reasonable times’ means at any time that the railroad carrier being inspected or investigated is performing its rail transportation business.”.

#### SEC. 208. RECOMMENDATIONS ON FATIGUE MANAGEMENT.

(a) WORKING GROUP ESTABLISHED.—The Railroad Safety Advisory Committee of the Federal Railroad Administration shall convene a working group to consider what legislative or other changes the Secretary of Transportation deems necessary to address fatigue management for railroad employees subject to chapter 211 of title 49, United States Code. The working group shall consider—

(1) the varying circumstances of rail carrier operations and appropriate fatigue countermeasures to address those varying circumstances, based on current and evolving scientific and medical research on circadian rhythms and human sleep and rest requirements;

(2) research considered by the Federal Motor Carrier Safety Administration in devising new hours of service regulations for motor carriers;

(3) the benefits and costs of modifying the railroad hours of service statute or implementing other fatigue management countermeasures for railroad employees subject to chapter 211; and

(4) ongoing and planned initiatives by the railroads and rail labor organizations to address fatigue management.

(b) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the working group convened under subsection (a) shall submit a report containing its conclusions and recommendations to the Railroad Safety Advisory Committee and the Secretary of Transportation. The Secretary shall transmit the report to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure.

(c) RECOMMENDATIONS.—If the Railroad Safety Advisory Committee does not reach a consensus on recommendations within 24 months after the date of enactment of this Act, the Secretary of Transportation shall, within 36 months after the date of enactment of this Act, submit to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure recommendations for legislative, regulatory, or other changes to address fatigue management for railroad employees.

#### SEC. 209. POSITIVE TRAIN CONTROL.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall prescribe a final rule addressing safety standards for positive train control systems or other safety technologies that provide similar safety benefits.

#### SEC. 210. POSITIVE TRAIN CONTROL IMPLEMENTATION.

(a) REPORT ON PILOT PROJECTS.—Within 3 months after completion of the North American Joint Positive Train Control Project, the Secretary of Transportation shall submit a report on the progress of on-going and completed projects to implement positive train control technology or other safety technologies that provide similar safety benefits to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure. The report shall include recommendations for future projects and any legislative or other changes the Secretary deems necessary.

(b) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall establish a grant program with a 50 percent match requirement for the implementation of positive train control technology or other safety technologies that provide similar safety benefits. From the amounts authorized to be appropriated for each of fiscal years 2004 through 2008 under section 20117(a) of title 49, United States Code, there shall be made available for the grant program—

(1) \$16,000,000 for fiscal year 2004;

(2) \$18,000,000 for fiscal year 2005; and

(3) \$20,000,000 for each of fiscal years 2006 through 2008.

#### SEC. 211. SURVEY OF RAIL BRIDGE STRUCTURES.

The Secretary of Transportation shall conduct a safety survey of the structural integrity of railroad bridges and railroads' programs of inspection and maintenance of railroad bridges. The Secretary shall issue a report to Congress at the completion of the

survey, including a finding by the Secretary concerning whether the Secretary should issue regulations governing the safety of railroad bridges.

#### SEC. 212. RAILROAD POLICE.

Section 28101 is amended by striking “the rail carrier” each place it appears and inserting “any rail carrier”.

#### SEC. 213. FEDERAL RAILROAD ADMINISTRATION EMPLOYEE TRAINING.

From the amounts authorized to be appropriated for fiscal year 2004 by section 20117(a)(1) of title 49, United States Code, there shall be made available to the Secretary of Transportation \$300,000 for the Federal Railroad Administration to perform a demonstration program to provide centralized training for its employees. The Secretary of Transportation shall report on the results of such training and provide further recommendations to the Congress.

#### SEC. 214. REPORT REGARDING IMPACT ON PUBLIC SAFETY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) *STUDY.*—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) *REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.*—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

#### SEC. 215. RUNAWAY TRAINS EMERGENCY RESPONSE.

(a) *NOTIFICATION PROCEDURES.*—

(1) *REGULATIONS.*—The Secretary of Transportation shall prescribe regulations setting forth procedures for a railroad to immediately notify first responders in communities that lie in the path of a runaway train.

(2) *TIME FOR ISSUANCE OF REGULATIONS.*—The Secretary shall issue the final regulations under this section not later than 120 days after the date of enactment of this Act.

(3) *DEFINITIONS.*—In this section, the term “runaway train” means a locomotive, train, rail car, or other item of railroad equipment that, at a particular moment in time, is rolling on tracks outside the operations limits of a railroad and is not under the control of the railroad.

(b) *RESPONSE PROCEDURES.*—Not later than 60 days after the Secretary prescribes the regulations under subsection (a), each railroad shall submit to the Department of Transportation for the Secretary’s approval the procedures proposed by the railroad for providing the notice described in such subsection.

(c) *REPORTING OF INCIDENTS REQUIRED.*—The Secretary shall require railroads to report to the Department of Transportation each incident of a runaway train.

#### TITLE III—MISCELLANEOUS PROVISIONS

##### SEC. 301. TECHNICAL AMENDMENTS REGARDING ENFORCEMENT BY THE ATTORNEY GENERAL.

Section 20112(a) is amended—

(1) by inserting “this part, except for section 20109 of this title, or” in paragraph (1) after “enforce,”;

(2) by striking “21301” in paragraph (2) and inserting “21301, 21302, or 21303”;

(3) by striking “subpena” in paragraph (3) and inserting “subpena, request for production of documents or other tangible things, or request for testimony by deposition”;

(4) by striking “chapter.” in paragraph (3) and inserting “part.”.

##### SEC. 302. TECHNICAL AMENDMENTS TO CIVIL PENALTY PROVISIONS.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) is amended—

(1) by striking “\$10,000.” and inserting “\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”; and

(2) by striking “\$20,000.” and inserting “\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”.

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—

(1) Section 21302(a)(2) is amended—

(A) by striking “\$10,000.” and inserting “\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”; and

(B) by striking “\$20,000.” and inserting “\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”.

(2) Section 21302 is amended by adding at the end the following:

“(c) *SETOFF.*—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

“(d) *DEPOSIT IN TREASURY.*—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”.

(c) VIOLATIONS OF CHAPTER 211.—

(1) Section 21303(a)(2) is amended—

(A) by striking “\$10,000.” and inserting “\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”; and

(B) by striking “\$20,000.” and inserting “\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”.

(2) Section 21303 is amended by adding at the end the following:

“[(c)] (d) *SETOFF.*—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

“[(d)] (e) *DEPOSIT IN TREASURY.*—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”.

##### SEC. 303. TECHNICAL AMENDMENTS TO ELIMINATE UNNECESSARY PROVISIONS.

(a) *IN GENERAL.*—Chapter 201 is amended—

(1) by striking the second sentence of section 20103(f);

(2) by striking section 20145;

(3) by striking section 20146; and

(4) by striking section 20150.

(b) *CONFORMING AMENDMENTS.*—The chapter analysis for chapter 201 is amended by striking the items relating to sections 20145, 20146, and 20150 and inserting at the appropriate place in the analysis the following:

“20145. [Repealed].

“20146. [Repealed].

“20150. [Repealed].”.

Mr. MCCONNELL. I ask unanimous consent that the committee amendments be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid on the table, en bloc, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 1402) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Railroad Safety Improvement Act”.

#### SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Amendment of title 49, United States Code.

Sec. 3. Table of contents.

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of appropriations.

#### TITLE II—RULEMAKING, INSPECTION, ENFORCEMENT, AND PLANNING AUTHORITY

Sec. 201. National crossing inventory.

Sec. 202. Grade crossing elimination and consolidation.

Sec. 203. Model legislation for driver behavior.

Sec. 204. Operation Lifesaver.

Sec. 205. Transportation security.

Sec. 206. Railroad accident and incident reporting.

Sec. 207. Railroad radio monitoring authority.

Sec. 208. Recommendations on fatigue management.

Sec. 209. Positive train control.

Sec. 210. Positive train control implementation.

Sec. 211. Survey of rail bridge structures.

Sec. 212. Railroad police.

Sec. 213. Federal Railroad Administration employee training.

Sec. 214. Report regarding impact on public safety of train travel in communities without grade separation.

Sec. 215. Runaway trains emergency response.

#### TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Technical amendments regarding enforcement by the Attorney General.

Sec. 302. Technical amendments to civil penalty provisions.

Sec. 303. Technical amendments to eliminate unnecessary provisions.

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS

##### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a) is amended to read as follows:

“(a) *GENERAL.*—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter—

“(1) \$166,000,000 for the fiscal year ending September 30, 2004;

“(2) \$176,000,000 for the fiscal year ending September 30, 2005;

“(3) \$185,000,000 for the fiscal year ending September 30, 2006;

“(4) \$192,000,000 for the fiscal year ending September 30, 2007; and

“(5) \$200,000,000 for the fiscal year ending September 30, 2008.”.

## **TITLE II—RULEMAKING, INSPECTION, ENFORCEMENT, AND PLANNING AUTHORITY**

### **SEC. 201. NATIONAL CROSSING INVENTORY.**

(a) IN GENERAL.—Chapter 201 is amended by adding at the end the following:

#### **“§ 20154. National crossing inventory**

“(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

“(1) report to the Secretary of Transportation current information, as specified by the Secretary, concerning each previously unreported crossing through which it operates; or

“(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

“(b) UPDATING OF CROSSING INFORMATION.—(1) On a periodic basis beginning not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

“(A) report to the Secretary current information, as specified by the Secretary, concerning each crossing through which it operates; or

“(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

“(2) A railroad carrier that sells a crossing on or after the date of enactment of the Federal Railroad Safety Improvement Act, shall, not later than the date that is 18 months after the date of enactment of the Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing.

“(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, until such provision is superseded by a regulation issued under this section.

“(d) DEFINITIONS.—In this section:

“(1) CROSSING.—The term ‘crossing’ means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

“(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

“(B) a dedicated pedestrian pathway that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

“(2) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, or Puerto Rico.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by in-

serting after the item relating to section 20153 the following:

“20154. National crossing inventory.”.

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

“(k) NATIONAL CROSSING INVENTORY.—

“(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, as specified by the Secretary, concerning each previously unreported crossing located within its borders.

“(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, as specified by the Secretary, concerning each crossing located within its borders.

“(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, until such provision is superseded by a regulation issued under this subsection.

“(4) DEFINITIONS.—In this subsection, the terms ‘crossing’ and ‘State’ have the meaning given those terms by section 20154(d)(1) and (2), respectively, of title 49.”.

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended—

(A) by inserting “with section 20154 or ” after “comply” in the first sentence; and

(B) by inserting “section 20154 of this title or” after “violating” in the second sentence.

(2) Section 21301(a)(2) is amended by inserting “The Secretary shall impose a civil penalty for a violation of section 20154 of this title.” after the first sentence.

### **SEC. 202. GRADE CROSSING ELIMINATION AND CONSOLIDATION.**

(a) CROSSING REDUCTION PLAN.—Within 24 months after the date of enactment of this Act, the Secretary of Transportation shall develop and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan for a joint initiative with States and municipalities to systematically reduce the number of public and private highway-rail grade crossings by 1 percent per year in each of the succeeding 10 years. The plan shall include—

(1) a prioritization of crossings for elimination or consolidation, based on considerations including—

(A) whether the crossing has been identified as high risk;

(B) whether the crossing is located on a designated high-speed corridor or on a railroad right-of-way utilized for the provision of intercity or commuter passenger rail service; and

(C) the existing level of protection;

(2) suggested guidelines for the establishment of new public and private highway-rail grade crossings, with the goal of avoiding unnecessary new crossings through careful traffic, zoning, and land use planning; and

(3) an estimate of the costs of implementing the plan and suggested funding sources.

(b) CONSULTATION WITH STATES.—In preparing the plan required by subsection (a), the Secretary shall seek the advice of State officials, including highway, rail, and judicial officials, with jurisdiction over crossing safety, including crossing closures. The Secretary and State officials shall consider—

(1) the feasibility of consolidating and improving multiple crossings in a single community;

(2) the impact of closure on emergency vehicle response time, traffic delays, and public inconvenience; and

(3) the willingness of a municipality to participate in the elimination or consolidation of crossings.

(c) GUIDE TO CROSSING CONSOLIDATION AND CLOSURE.—Within 1 year after the date of enactment of this Act, the Secretary shall update, reissue, and distribute the publication entitled “A Guide to Crossing Consolidation and Closure”.

(d) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—Section 130(i)(3)(B) of title 23, United States Code is amended by striking “\$7,500.” and inserting “\$15,000.”.

(e) FUNDING FOR PLAN.—From amounts authorized by section 20117(a)(1) of title 49, United States Code, to the Secretary, there shall be available \$500,000 for fiscal year 2004 to prepare the plan required by this section, such sums to remain available until the plan is transmitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure as required by subsection (a).

### **SEC. 203. MODEL LEGISLATION FOR DRIVER BEHAVIOR.**

(a) IN GENERAL.—Section 20151 is amended—

(1) by striking the section caption and inserting the following:

**“§ 20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals”;**

(2) by striking “safety,” in subsection (a) and inserting “safety and violations of highway-rail grade crossing signals,”;

(3) by striking the second sentence of subsection (a) and inserting “The evaluation and review shall be completed not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act.”; and

(4) by striking “MODEL LEGISLATION.—Within 18 months after November 2, 1994, the” in subsection (c) and inserting “LEGISLATION FOR VANDALISM AND TRESPASSING PENALTIES.—The”; and

(5) by adding at the end the following:

“(d) MODEL LEGISLATION FOR GRADE-CROSSING VIOLATIONS.—Within 2 years after the date of the enactment of the Federal Railroad Safety Improvement Act, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signals.

“(e) VIOLATION DEFINED.—In this section, the term ‘violation of highway-rail grade crossing signals’ includes any action by a motorist, unless directed by an authorized safety officer—

“(1) to drive around or through a grade crossing gate in a position intended to block passage over railroad tracks;

“(2) to drive through a flashing grade crossing signal;

“(3) to drive through a grade crossing with passive warning signs without determining that the grade crossing could be safely crossed before any train arrived; and

“(4) in the vicinity of a grade crossing, that creates a hazard of an accident involving injury or property damage at the grade crossing.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20151 and inserting the following:

“20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals.”.

#### SEC. 204. OPERATION LIFESAVER.

Section 20117(e) is amended to read as follows:

“(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, from the amounts authorized to be appropriated under subsection (a), there shall be available for railroad research and development \$1,250,000 for fiscal year 2004, \$1,300,000 for fiscal year 2005, \$1,350,000 for fiscal year 2006, \$1,400,000 for fiscal year 2007, and \$1,460,000 for fiscal year 2008 to support Operation Lifesaver, Inc.”.

#### SEC. 205. TRANSPORTATION SECURITY.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) is amended to read as follows:

“(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety, including security, supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary of Transportation.”.

#### SEC. 206. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

“(a) GENERAL REQUIREMENTS.—On a periodic basis specified by the Secretary of Transportation but not less frequently than quarterly, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the specified period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.”.

#### SEC. 207. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 is amended by inserting at the end the following:

“(c) RAILROAD RADIO COMMUNICATIONS.—

“(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct the following activities at reasonable times:

“(A) Intercepting a radio communication that is broadcast or transmitted over a frequency authorized for the use of one or more

railroad carriers by the Federal Communications Commission, with or without making their presence known to the sender or other receivers of the communication and with or without obtaining the consent of the sender or other receivers of the communication.

“(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

“(C) Receiving or assisting in receiving the communication (or any information therein contained).

“(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

“(E) Recording the communication by any means, including writing and tape recording.

“(2) LIMITATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary may engage in the activities authorized by paragraph (1) for the purpose of accident prevention, including, but not limited to, accident investigation.

“(3) USE OF INFORMATION.—

“(A) Except as provided in subparagraph (F), information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to sections 5122, 20702(b), 20111, 20112, 20113, or 20114 of this title.

“(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

“(C) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

“(D) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

“(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

“(F) No information obtained by an activity authorized by paragraph (1)(A) that was undertaken solely for the purpose of accident investigation may be introduced into evidence in any administrative or judicial proceeding in which civil or criminal penalties may be imposed.

“(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall

not apply to conduct authorized by and pursuant to this subsection.

“(d) REASONABLE TIME DEFINED.—In this section, the term ‘at reasonable times’ means at any time that the railroad carrier being inspected or investigated is performing its rail transportation business.”.

#### SEC. 208. RECOMMENDATIONS ON FATIGUE MANAGEMENT.

(a) WORKING GROUP ESTABLISHED.—The Railroad Safety Advisory Committee of the Federal Railroad Administration shall convene a working group to consider what legislative or other changes the Secretary of Transportation deems necessary to address fatigue management for railroad employees subject to chapter 211 of title 49, United States Code. The working group shall consider—

(1) the varying circumstances of rail carrier operations and appropriate fatigue countermeasures to address those varying circumstances, based on current and evolving scientific and medical research on circadian rhythms and human sleep and rest requirements;

(2) research considered by the Federal Motor Carrier Safety Administration in devising new hours of service regulations for motor carriers;

(3) the benefits and costs of modifying the railroad hours of service statute or implementing other fatigue management countermeasures for railroad employees subject to chapter 211; and

(4) ongoing and planned initiatives by the railroads and rail labor organizations to address fatigue management.

(b) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the working group convened under subsection (a) shall submit a report containing its conclusions and recommendations to the Railroad Safety Advisory Committee and the Secretary of Transportation. The Secretary shall transmit the report to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure.

(c) RECOMMENDATIONS.—If the Railroad Safety Advisory Committee does not reach a consensus on recommendations within 24 months after the date of enactment of this Act, the Secretary of Transportation shall, within 36 months after the date of enactment of this Act, submit to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure recommendations for legislative, regulatory, or other changes to address fatigue management for railroad employees.

#### SEC. 209. POSITIVE TRAIN CONTROL.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall prescribe a final rule addressing safety standards for positive train control systems or other safety technologies that provide similar safety benefits.

#### SEC. 210. POSITIVE TRAIN CONTROL IMPLEMENTATION.

(a) REPORT ON PILOT PROJECTS.—Within 3 months after completion of the North American Joint Positive Train Control Project, the Secretary of Transportation shall submit a report on the progress of on-going and completed projects to implement positive train control technology or other safety technologies that provide similar safety benefits to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure. The report shall include recommendations for future projects and any legislative or other changes the Secretary deems necessary.

(b) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall establish a grant program with a 50 percent match requirement

for the implementation of positive train control technology or other safety technologies that provide similar safety benefits. From the amounts authorized to be appropriated for each of fiscal years 2004 through 2008 under section 20117(a) of title 49, United States Code, there shall be made available for the grant program—

- (1) \$16,000,000 for fiscal year 2004;
- (2) \$18,000,000 for fiscal year 2005; and
- (3) \$20,000,000 for each of fiscal years 2006 through 2008.

#### SEC. 211. SURVEY OF RAIL BRIDGE STRUCTURES.

The Secretary of Transportation shall conduct a safety survey of the structural integrity of railroad bridges and railroads' programs of inspection and maintenance of railroad bridges. The Secretary shall issue a report to Congress at the completion of the survey, including a finding by the Secretary concerning whether the Secretary should issue regulations governing the safety of railroad bridges.

#### SEC. 212. RAILROAD POLICE.

Section 28101 is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

#### SEC. 213. FEDERAL RAILROAD ADMINISTRATION EMPLOYEE TRAINING.

From the amounts authorized to be appropriated for fiscal year 2004 by section 20117(a)(1) of title 49, United States Code, there shall be made available to the Secretary of Transportation \$300,000 for the Federal Railroad Administration to perform a demonstration program to provide centralized training for its employees. The Secretary of Transportation shall report on the results of such training and provide further recommendations to the Congress.

#### SEC. 214. REPORT REGARDING IMPACT ON PUBLIC SAFETY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

#### SEC. 215. RUNAWAY TRAINS EMERGENCY RESPONSE.

(a) NOTIFICATION PROCEDURES.—

(1) REGULATIONS.—The Secretary of Transportation shall prescribe regulations setting forth procedures for a railroad to immediately notify first responders in communities that lie in the path of a runaway train.

(2) TIME FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue the final regulations under this section not later than 120 days after the date of enactment of this Act.

(3) DEFINITIONS.—In this section, the term "runaway train" means a locomotive, train, rail car, or other item of railroad equipment that, at a particular moment in time, is rolling on tracks outside the operations limits of a railroad and is not under the control of the railroad.

(b) RESPONSE PROCEDURES.—Not later than 60 days after the Secretary prescribes the regulations under subsection (a), each railroad shall submit to the Department of Transportation for the Secretary's approval the procedures proposed by the railroad for

providing the notice described in such subsection.

(c) REPORTING OF INCIDENTS REQUIRED.—The Secretary shall require railroads to report to the Department of Transportation each incident of a runaway train.

### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. TECHNICAL AMENDMENTS REGARDING ENFORCEMENT BY THE ATTORNEY GENERAL.

Section 20112(a) is amended—

(1) by inserting "this part, except for section 20109 of this title, or" in paragraph (1) after "enforce,";

(2) by striking "21301" in paragraph (2) and inserting "21301, 21302, or 21303";

(3) by striking "subpena" in paragraph (3) and inserting "subpena, request for production of documents or other tangible things, or request for testimony by deposition"; and

(4) by striking "chapter." in paragraph (3) and inserting "part.".

#### SEC. 302. TECHNICAL AMENDMENTS TO CIVIL PENALTY PROVISIONS.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) is amended—

(1) by striking "\$10,000." and inserting "\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note)."; and

(2) by striking "\$20,000." and inserting "\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).".

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—

(1) Section 21302(a)(2) is amended—

(A) by striking "\$10,000." and inserting "\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note)."; and

(B) by striking "\$20,000." and inserting "\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).".

(2) Section 21302 is amended by adding at the end the following:

"(c) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

"(d) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts."

(c) VIOLATIONS OF CHAPTER 211.—

(1) Section 21303(a)(2) is amended—

(A) by striking "\$10,000." and inserting "\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note)."; and

(B) by striking "\$20,000." and inserting "\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).".

(2) Section 21303 is amended by adding at the end the following:

"(d) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

"(e) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts."

#### SEC. 303. TECHNICAL AMENDMENTS TO ELIMINATE UNNECESSARY PROVISIONS.

(a) IN GENERAL.—Chapter 201 is amended—

(1) by striking the second sentence of section 20103(f);

(2) by striking section 20145;

(3) by striking section 20146; and

(4) by striking section 20150.

(b) CONFORMING AMENDMENTS.—The chapter analysis for chapter 201 is amended by striking the items relating to sections 20145, 20146, and 20150 and inserting at the appropriate place in the analysis the following:

"20145. [Repealed].

"20146. [Repealed].

"20150. [Repealed]."

### AWARD OF CONGRESSIONAL GOLD MEDALS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3287 which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3287) to award congressional gold medals posthumously on behalf of Reverend Joseph A. DeLaine, Harry and Eliza Briggs, and Levi Pearson in recognition of their contributions to the Nation as pioneers in the effort to desegregate public schools that led directly to the landmark desegregation case of Brown, et al., v. the Board of Education of Topeka, et al.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3287) was read the third time and passed.

### STATE CRIMINAL ALIEN ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 460, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 460) to amend the Immigration and Nationality Act to authorize appropriation for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating to this measure be printed in the RECORD.